

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(206)

CWP-6360-2017

Date of Decision : August 03, 2023

Richa Chandna

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shrey Goel, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

1. Present petition has been filed by the petitioner claiming the interest upon the arrears of salary/pension for which she was found entitled for on revision of her pay and consequent pension in respect of the service rendered by her mother namely Smt. Sushil Prabha Chandna, who was working as a Lecturer with the respondent-State of Haryana.

2. As per the petitioner, the salary of the mother of the petitioner was revised by the respondents and the consequent pensionary benefits were also revised due to which, certain arrears became admissible, which arrears though have been paid but the interest upon the said arrears have not been released to the petitioner though, the benefit of interest has already been granted the benefit of interest by the respondent-Department to a similarly situated employee namely Dr. R.N. Singh, who was also extended the

similar relief, hence, on the ground of parity, the petitioner be also paid interest on the arrears of salary/arrears of pension, which has been released in her favour.

3. Learned counsel for the respondents submits that keeping in view the reply filed by the State, it is a conceded position that Dr. R.N. Singh was also granted the benefit of revision of pension after the revised pay scale was allowed in his favour and he was also paid interest on the said benefit though, according to the Department, the said interest was wrongly paid to him. Learned counsel for the respondents further submits that as of now, the said interest which was paid to Dr.R.N. Singh has never been withdrawn.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The only question which arise in the present petition is whether, the mother of the petitioner was entitled for interest on the arrears of pension after revision of her pay, as allowed in case of similarly situated employee namely Dr. R.N Singh. Though, the respondents are disputing the entitlement of Dr. R.N. Singh qua the grant of interest but in the reply, it is a conceded fact that the interest on the arrears of salary/pension have already been extended to Dr. R.N. Singh, which benefit has never been withdrawn from him.

6. Once, a similarly situated employee has already been allowed the benefit of interest by the Department, the same needs to be extended to the mother of the petitioner also on the arrears of salary/pension for which she became entitled for in a similar fashion as in the case of Dr. R.N. Singh. Hence, denial of the benefit to the petitioner's mother qua the grant of interest will amount to discrimination, which cannot be permitted even

otherwise.

7. Even otherwise, a Coordinate Bench of this Court in ***of J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, has held that in case any amount belonging to a Government employee has been retained and used by the Department, the employee will become entitled for interest on the said amount. The relevant paragraph of the said judgment is as under:-

*“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”*

8. In the present case, it is a conceded fact that the pay of the mother of the petitioner was to be revised, which benefit was not granted to her till she retired from service and ultimately, the benefit of the said pay revision was extended to the mother of the petitioner and the consequential benefits of the revision of the pension as well as the pensionary benefits accrued to the mother of the petitioner. The amount of arrears for which the mother of the petitioner was entitled for, were retained and used by the Department till the same was disbursed. Hence, as per the judgment of ***J.S. Cheema's case (supra)***, the petitioner becomes entitled for the grant of interest even independent of the claim of parity with Dr. R.N. Singh.

9. Learned counsel for the respondents-State submits that the interest is to be granted keeping in view Section 34 of the CPC according to

which, the interest can only be awarded at bank rate being provided by the nationalized bank and therefore, the interest which was granted in favour of Dr. R.N. Singh should not be made applicable in the case of the petitioner as the said benefit was extended to Dr. R.N. Singh inadvertently.

10. Learned counsel for the petitioner has not been able to dispute that keeping in view Section 34 of the CPC, the interest beyond 6% per annum cannot be given.

11. Hence, the petitioner is held entitled for interest on the arrears which have already been released to the mother of the petitioner @ 6% per annum from the date the payment became due till the actual disbursement of the same. Let the calculation of the financial benefits qua the interest be done within a period of two months from the receipt of copy of this order and the amount so computed be released to the petitioner immediately.

12. Present petition is allowed in above terms.

**August 03, 2023**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

Whether speaking/reasoned : Yes  
Whether reportable : Yes